

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

JUNE 14, 2007

The Marlboro Township Council held its re-scheduled regular meeting on June 14, 2007 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the re-scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on April 27, 2007; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Pernice, Council Vice President Rosenthal, Councilwoman Tragni and Council President Cantor (Absent: Morelli).

Also present were: Mayor Robert Kleinberg, Andrew Bayer, Esq., Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Council President Cantor opened the Public Hearing on Ordinance # 2007-10 (Vacation of Unnamed Street Adjacent to Wooleytown Road). After the Public Hearing was held and closed, the following Resolution Res. # 2007-192/Ord. # 2007-10 (Vacation of Unnamed Street Adjacent to Wooleytown Road) was introduced by reference, offered by Councilwoman Tragni, and seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-192

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-10

AN ORDINANCE AUTHORIZING THE VACATION OF AN UNNAMED AND UNIMPROVED PAPER STREET ADJACENT TO WOOLEYTOWN ROAD RUNNING BETWEEN BLOCK 147, LOTS 21 AND 22 IN THE TOWNSHIP OF MARLBORO

which was introduced on May 17, 2007, public hearing held June 14, 2007, be adopted on second and final reading this 14th day of June, 2007.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Resolution # 2007-193/Ord. # 2007-13 (Amend Daily Parking Fee) was introduced by reference, offered by Councilwoman Tragni, and seconded by Council Vice President Rosenthal. Discussion followed, after which Council decided to keep the daily parking fee at \$1. The resolution/ordinance as amended was then passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-193

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-13

AN ORDINANCE AMENDING SECTION 103-9, ARTICLE IA "DAILY PARKING SECTION OF UNION HILL LOT" OF THE CODE OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on June 28, 2007 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2007-13

AN ORDINANCE AMENDING SECTION 103-9, ARTICLE IA "DAILY
PARKING SECTION OF UNION HILL LOT" OF THE CODE OF THE
TOWNSHIP OF MARLBORO

WHEREAS, Article IA, Section 103-9 of the Code of the Township of Marlboro ("Township") sets forth the requirements regarding daily parking in the Union Hill parking lot in the Township; and

WHEREAS, construction work has recently commenced in the Union Hill parking lot in the Township and has caused a need for the daily parking to be relocated from the Union Hill parking lot to the Union Hill Park parking lot in the Township; and

WHEREAS, due to the relocation of daily parking, the method of payment for parking has been changed from payment by drop box at the Union Hill parking lot to payment by meter at the Union Hill Park parking lot; and

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Section 103-9, Article 1A "Daily Parking Section of Union Hill Lot" be and hereby is amended in its entirety to read as follows:

ARTICLE IA, DAILY PARKING SECTION OF UNION HILL PARK, PARK AND PAY LOT

§ 103-9.1. Purpose.

This article is adopted for the same purpose as § 103-1 in this chapter.

§ 103-9.2. Applicability of provisions.

The provisions, rules and regulations of this article pertain only to the appropriately marked daily parking section of the Union Hill Park, Park and Pay Lot.

§ 103-9.3. Manner of parking; regulations; fee.

A. Parking in the daily parking section of the Union Hill Park, Park and Pay Lot shall be permitted on a first-come, first-served basis and no decal or permit shall be required to park in the aforesaid facility. The daily parking fee shall be \$1, which

must be deposited in bill or coin in the parking meter board. The fee must be inserted immediately after the vehicle is parked and the driver must indicate the appropriate parking space number in the parking meter board.

B. Parking in the daily parking section shall be in parking stalls designated and marked for daily parking only. Stalls designated and marked for "General Public" may be used by any person.

C. No vehicle shall be parked except within a single designated parking space where indicated by marked lines on the surface of the parking area or as may be directed by the police or attendant in charge of the parking area or by a control sign indicating the designated area to park.

D. No trailers, trucks or buses shall be parked in the aforesaid facility. No vehicle shall be parked within the entrance or exit to the aforesaid facility.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

The following Resolution Res. # 2007-194/Ord. # 2007-14 (Zone Change - B. 115, Lots 25 & 26 - Pursuant to Settlement Agreement) was introduced by reference, offered by Councilman Pernice, and seconded by Councilwoman Tragni. After discussion, the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-194

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2007-14

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO CHANGE THE ZONING OF LOTS 25 and 26 IN BLOCK 115 FROM R-60 TO R-20 RESIDENTIAL DISTRICT AND TO ALLOW FOR THE DEVELOPMENT OF FOUR SINGLE FAMILY RESIDENCE LOTS

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on July 12, 2007 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2007-14

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MARLBORO, NEW JERSEY TO CHANGE THE ZONING OF LOTS 25 and 26 IN BLOCK 115 FROM R-60 TO R-20 RESIDENTIAL DISTRICT AND TO ALLOW FOR THE DEVELOPMENT OF FOUR SINGLE FAMILY RESIDENCE LOTS

WHEREAS, Jalaram Seva Samaj of North America, Inc. ("Jalaram") is the owner of Lots 25 and 26 in Block 115 in Marlboro Township ("Township"), New Jersey (the "Property"), which is currently located in an R-60 residential zone; and

WHEREAS, Jalaram submitted an application to the Planning Board for site plan approval for the construction of a Hindu temple on the Property which was denied, and Jalaram filed two (2) separate complaints against the Township and the Planning Board in the Superior Court of New Jersey ("State Litigation") and in the United States District Court for the District of New Jersey ("Federal Litigation"); and

WHEREAS, the Township and Jalaram discontinued both the State Litigation and the Federal Litigation and entered into a settlement agreement wherein the Township agreed to introduce an ordinance amending the Marlboro Zoning Ordinances and Land Use Regulations to change the zoning of the Property from R-60 to R-20 Residential District, allow for the development of four single family residential lots, and to waive any and all application fees in connection with Jalaram's subdivision

application in return for Jalaram dismissing the State Litigation and Federal Litigation and releasing the Township and Planning Board from all claims (the "Settlement"); and

WHEREAS, in accordance with the Settlement, the Mayor and the Township Council desire to change the zoning of the property from R-60 to R-20 Residential District, to allow for the development of four single family residential lots, and to waive any and all application fees in connection with Jalaram's subdivision application; and

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the zoning of Lots 25 and 26 in Block 115 in Marlboro Township, New Jersey be changed from R-60 to R-20 Residential District to allow for the development of four single family residential lots in accordance with the settlement; and

BE IT FURTHER ORDAINED, that any and all application fees in connection with Jalaram's subdivision application shall be waived by the Township; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Res. # 2007-195 (Renewal Liquor Licenses 7/1/2007 - 6/30/08) was introduced by reference, offered by Council Vice President Rosenthal, and seconded by Councilwoman Tragni. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-195

BE IT RESOLVED by the Township Council of the Township of Marlboro that the following Liquor Licenses be and they are hereby renewed for the period beginning July 1, 2007 through June 30, 2008.

- | | | |
|-----|--|-----------------|
| 1. | Hituja Corp.
T/A Marlboro Buy Rite Liquors | 1328 44 001 006 |
| 2. | T & C Restaurant Inc.
T/A Crown Palace | 1328 33 005 006 |
| 3. | Gene and Lottie Janowski, Inc.
T/A Fireside Lodge | 1328 33 003 002 |
| 4. | I.R Restaurant Corp. (pocket license) | 1328 33 007 004 |
| 5. | Anna Ulaskevich
T/A Andiron Inn | 1328 33 010 002 |
| 6. | M. S. D. Enterprise, Inc.
T/A Martucci's Deli | 1328 44 009 003 |
| 7. | Bella Vista Country Club | 1328 33 004 004 |
| 8. | 476 Route 520 Corp.
T/A SamVera | 1328 33 002 012 |
| 9. | B.T.A., LLC
T/A Pinos | 1328 33 008 005 |
| 10. | Worthwhile, Inc.
T/A Cambridge Spirits Unlimited | 1328 44 016 002 |
| 11. | Briad Restaurant Group, L.L.C.
T/A TGI Fridays | 1328 33 017 002 |
| 12. | JRJ Hospitality Inc.
T/A Nonna's | 1328 33 015 011 |
| 13. | A.J.R. Restaurant Group
T/A Damon's Grill | 1328 33 018 001 |
| 14. | Brooks Edge Plaza, LLC (pocket license) | 1328 33 019 001 |
| 15. | Morganville Ind. Vol. Fire Co. Inc. | 1328 31 012 001 |
| 16. | Morganville Vol. Fire Co. No. 1 | 1328 31 013 001 |
| 17. | Robertsville Vol. Fire Co. #2 | 1328 31-014 001 |

BE IT FURTHER RESOLVED that pursuant to NJAC 13: 2-19.1, renewal of the aforementioned licenses shall not bar or abate any pending or anticipated disciplinary proceeding against any licensed establishment.

The following Res. # 2007-196 (Temporary Emergency Appropriation) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-196

EMERGENCY TEMPORARY RESOLUTION
PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, N.J.S.A. 40A:4-20 provides authorization for an emergency temporary appropriation in anticipation of the adoption of the 2007 Municipal budget; and

WHEREAS, the total emergency temporary resolutions adopted in the year CY 2006 pursuant to the provisions of N.J.C.A. 40A 4-20 (Chapter 96, P.L.1951 as amended) including this resolution total: \$15,869,701.19 for the municipal budget and \$954,712.50 for the operations of the swim utility;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for each of the accounts listed on the attached.
2. That each said emergency temporary appropriation has been provided for in the CY 2007 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

Appropriations exceeding 50% of 2006 funding levels are in **bold**

Current Fund	2006 Operating Budget	2007 Temporary Emergency
Administration (30)		
Salary & Wages	227,500.00	113,750.00
Other Expenses	57,460.00	28,730.00
Office of the Mayor (10)		
Salary & Wages	60,000.00	30,000.00
Other Expenses	5,700.00	2,850.00
Ethics Commission		
Salary & Wages	0.00	0.00
Other Expenses	8,000.00	4,000.00
Township Council (21)		
Salary & Wages	18,000.00	9,000.00
Other Expenses	8,000.00	4,000.00
Public Information		
Salary & Wages	10,500.00	5,250.00
Other Expenses	38,600.00	19,300.00
Municipal Clerk (20)		
Salary & Wages	180,000.00	90,000.00
Other Expenses	67,800.00	33,900.00
Finance		
Salary & Wages	222,500.00	111,250.00
Other Expenses	32,000.00	16,000.00
Annual Audit	47,500.00	0.00
Central Computer Services		
Salary & Wages	30,000.00	15,000.00
Other Expenses	27,740.00	13,870.00
Tax Collector		
Salary & Wages	215,000.00	107,500.00
Other Expenses	33,750.00	16,875.00

Tax Assessor		
Salary & Wages	190,000.00	95,000.00
Other Expenses	96,750.00	48,375.00
Legal Services		
Other Expenses	460,000.00	275,000.00
Engineering Services		
Salary & Wages	283,000.00	141,500.00
Other Expenses	120,000.00	75,000.00
Economic Development		
Salary & Wages		
Other Expenses	500.00	0.00
Community Relations		
Other Expenses	0.00	0.00
Inter- Governmental Relations		
Other Expenses	1,000.00	0.00
Homeland Security		
Salary & Wages	45,000.00	22,500.00
Other Expenses	48,500.00	24,250.00
Historic Sites Commission		
Other Expenses	3,000.00	1,500.00
Planning Board		
Salary & Wages	70,000.00	35,000.00
Other Expenses	32,800.00	32,000.00
Planning Board Contractual		
Other Expenses	43,380.00	21,690.00
Zoning Board		
Salary & Wages	147,000.00	77,500.00
Other Expenses	45,800.00	28,000.00
Liability Insurance	399,500.00	427,800.00
Workers Comp	380,000.00	482,700.00
Group Insurance	2,445,900.00	1,355,000.00

Unemployment Insurance	10,000.00	5,000.00
Police		
Salary & Wages	7,490,000.00	3,745,000.00
Other Expenses	364,250.00	182,125.00
Crime Prevention		
Other Expenses	36,535.00	18,267.50
DARE Program		
Other Expenses	15,000.00	7,500.00
Highway Safety		
Other Expenses	32,400.00	16,200.00
Emergency Management		
Salary & Wages	20,000.00	10,000.00
Other Expenses	16,350.00	8,175.00
Aid to Volunteer Ambulance Companies		
Other Expenses	60,000.00	0.00
Uniform Fire Safety Act		
Salary & Wages	130,000.00	65,000.00
Other Expenses	16,428.00	8,214.00
Municipal Prosecutors Office		
Salary & Wages	31,200.00	15,600.00
Streets and Road Maint		
Salary & Wages	1,385,000.00	767,000.00
Other Expenses	45,720.00	22,860.00
Snow Removal		
Salary & Wages	75,000.00	50,000.00
Other Expenses	366,780.00	250,000.00
Public Works - Other		
Salary & Wages	330,000.00	165,000.00
Other Expenses	61,270.00	30,635.00

Shade Tree Commission		
Salary & Wages	2,000.00	1,000.00
Other Expenses	2,000.00	1,000.00
Solid Waste Collection		
Salary & Wages	25,000.00	12,500.00
Other Expenses	642,900.00	321,450.00
Buildings & Grounds		
Salary & Wages	527,500.00	263,750.00
Other Expenses	155,400.00	105,000.00
Vehicle Maintenance		
Salary & Wages	528,000.00	264,000.00
Other Expenses	114,550.00	57,275.00
Community Services Act		
Other Expenses	100,000.00	35,000.00
Open space Committee		
Salary & Wages	4,200.00	2,100.00
Public Health Services - Registrar		
Salary & Wages	6,500.00	3,250.00
Other Expenses	1,900.00	950.00
Drug Abuse Control		
Other Expenses	11,550.00	5,775.00
Environmental Health Services		
Salary & Wages		
Other Expenses	8,000.00	4,000.00
Animal Control Services		
Other Expenses	40,000.00	30,000.00
Recreation		
Salary & Wages	405,000.00	225,000.00
Other Expenses	136,100.00	100,000.00
Teen Program		
Salary & Wages	0.00	0.00
Other Expenses	15,000.00	7,500.00

Summer Youth Activities		
Salary & Wages	0.00	0.00
Other Expenses	7,000.00	3,500.00
Park Maintenance		
Salary & Wages	415,000.00	235,000.00
Other Expenses	28,930.00	14,465.00
Municipal Library		
Other Expenses	18,000.00	9,000.00
Little League		
Other Expenses	0.00	0.00
Pop Warner		
Other Expenses	0.00	0.00
Prior Year Bills	39,319.21	25,000.00
Accumulated Leave Compensation	1,000.00	0.00
Contingent		
Other Expenses	0.00	10,000.00
Deficit in Animal control	14,583.47	0.00
Postage		
Other Expenses	53,000.00	30,000.00
Electricity	290,400.00	145,200.00
Street Lighting	562,500.00	281,250.00
Telephone	123,600.00	61,800.00
Water	15,600.00	10,000.00
Natural Gas	80,000.00	40,000.00
Sewer	7,500.00	3,750.00
Gasoline	385,000.00	210,000.00
Landfill Disposal Costs	250,000.00	125,000.00

PERS	133,000.00	273,000.00
FICA	950,000.00	515,000.00
Municipal Court		
Salary & Wages	310,000.00	155,000.00
Other Expenses	126,600.00	63,300.00
Public Defender		
Salary & Wages		
Other Expenses	17,000.00	8,500.00
Affordable Housing		
Salary & Wages	9,000.00	4,500.00
Other Expenses	4,700.00	2,350.00
Police Dispatch 911		
Salary & Wages	575,000.00	287,500.00
Other Expenses	224,480.00	112,240.00
LOSAP		
Other Expenses	75,000.00	0.00
PFRS		
Other Expenses	617,500.00	1,032,500.00
Library County Contract		
Other Expenses	5,500.00	0.00
SFSP Fire District Payments		
Other Expenses	14,229.00	0.00
Clean Communities Act	32,713.86	2,408.34
Monmouth Drug & Alcohol		
Grant Share	33,095.00	0.00
Local Share	8,273.75	0.00
Recycling tonnage Grant	15,913.00	19,458.87
Child Passenger Safety	0.00	1,656.00
Body Armor Grant	6,694.65	7,011.10
StormWater Regulation Grant	15,464.00	0.00

Developer Contributions - Park Imps	255,000.00	0.00
Turf Fields / Park Improvements	0.00	100,000.00
Alcohol Rehab Grant	0.00	353.71
Click It or Ticket	4,000.00	4,000.00
NJDOT Safe Streets	40,000.00	0.00
Matching Funds for Grants	11,366.00	0.00
Secure Our Schools Grant		
Grant Share	131,307.50	0.00
Local Match	131,307.50	0.00
Drunk Driving Enforcement		
S&W	7,307.76	0.00
Handicapped Rec Opportunities		
Grant		
Grant Share	4,910.00	0.00
Local Share	0.00	
Overexpenditure of Capital		
Improvement Fund		140766.67
Capital Improvement Fund		
Other Expenses	0.00	275,000.00
Union Hill Parking Lot Improvements	0.00	75,000.00
Acquisition of Right of Way	0.00	5,000.00
Bond Principal	1,696,000.00	400,000.00
Bond Interest	795,750.00	450,000.00
Note Principal	0.00	41,175.00
Note Interest	117,000.00	60,935.00
Green Acres Trust - P & I	28,865.00	28,865.00

Capital Lease program		
Principal	450,000.00	0.00
Interest	72,000.00	30,000.00
Emergency Authorizations	105,000.00	0.00
Deferred Charges	0.00	0.00
Reserve for Uncollected Taxes	1,700,000.00	0.00
Totals	30,329,122.70	15,869,701.19
Swim Utility	2006	2007
	Operating	Temporary
	Budget	Budget
Salary & Wages	444,000.00	444,000.00
Other Expenses	454,300.00	400,000.00
Capital Outlay	120,000.00	100,000.00
Payment of Bond Principal	10,000.00	10,000.00
Payment of Bond Anticipation Notes		
Payment of Bond Interest	1,700.00	712.50
Payment of Note Principal		
Public Employees Retirement		
System		
FICA		
Unemployment		
Totals	1,030,000.00	954,712.50

The following Res. # 2007-197 (Amending 2007 Municipal Budget) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-197

RESOLUTION OF THE TOWNSHIP OF MARLBORO
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
TO AMEND INTRODUCED BUDGET

WHEREAS, the local municipal budget for 2007 was introduced on May 3, 2007, and

WHEREAS, the public hearing and anticipated date of adoption for said budget is June 28, 2007, and

WHEREAS, the Township Council of the Township of Marlboro desires to amend said budget prior to adoption,

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, that the following amendment be made to the 2007 introduced municipal budget:

	<u>From</u>	<u>To</u>
<i>Revenues:</i>		
3. Miscellaneous Revenues – Section F:		
Child Passenger Safety Grant	\$ 0.00	\$1,656.00
Total Miscellaneous Revenues Section F	\$806,580.00	\$808,236.00
3. Miscellaneous Revenues – Section G:		
Reserve for Alcohol Beverage License	\$0.00	\$100,000.00
Total Miscellaneous Revenues Section G	\$932,606.67	\$1,032,606.67
Total Miscellaneous Revenues	\$7,887,223.67	\$7,988,879.67
5. Subtotal General Revenues	\$15,479,523.67	\$15,581,179.67
7. Total General Revenues	\$32,501,607.61	\$32,603,263.61
<i>Appropriations:</i>		
A. Public & Private Programs Offset by Revenues – Operations Excluded from “CAPS”		
Child Passenger Safety Grant	\$0.00	\$1,656.00
Total Public & Private Programs Offset by Revenue:	\$821,760.00	\$823,416.00
Capital Improvements Excluded from “CAPS”		
Improvements to Municipal Parks	\$0.00	\$100,000.00
Total Capital Improvements Excluded from “CAPS”	\$355,000.00	\$455,000.00
Total General Appropriations – Excluded from “CAPS”	\$5,649,634.50	\$5,751,290.50
L. Subtotal General Appropriations	\$30,751,607.61	\$30,853,263.61
9. General Appropriations	\$32,501,607.61	\$32,603,263.61

BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services for his certification of the local municipal budget so amended.

BE IT FURTHER RESOLVED that this amendment, in accordance with the provisions of N.J.S.A. 40A:4-9, be published in the Asbury Park Press in the issue of June 19, 2007, and that said

publication contains notice of Public Hearing of said amendment to be held at the Municipal Building on June 28, 2007, at 8:00 o'clock p.m.

The following Res. # 2007-198 (Authorizing Professional Services Agreement - Birdsall Engineering - a) Turf Field, b) Litigation) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-198

A RESOLUTION AUTHORIZING THE EXECUTION OF
PROFESSIONAL SERVICES CONTRACTS BETWEEN
BIRDSALL ENGINEERING, INC. AND THE TOWNSHIP OF MARLBORO
FOR VARIOUS ENGINEERING SERVICES

WHEREAS, the Township of Marlboro is in need of professional engineering services for certain projects; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Birdsall Engineering, Inc. has submitted the following proposals (the "Proposals") to the Township of Marlboro to provide the aforementioned professional engineering services:

- 1) Inspection and construction administration for the multipurpose synthetic turf field for an amount not to exceed \$47,500.00;
- 2) Engineering Services in connection with litigation for an amount not to exceed \$25,000.00;

WHEREAS, the Chief Financial Officer has certified in writing that certain of these proposals will exceed \$17,500; and

WHEREAS, Birdsall Engineering, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Birdsall Engineering, Inc. has not made any reportable contributions to a political or candidate committee in the Township of Marlboro in the previous one year, and that the contract will prohibit Birdsall Engineering, Inc. from

making any reportable contributions through the term of the contract; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Birdsall Engineering, Inc. to provide the required professional services in accordance with the Proposals; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute contracts, in a form legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the contracts, which is attached hereto, and that sufficient funds are available for said contracts from the following account numbers:

- 1) Synthetic Turf Field - 7-01- -324-201
- 2) Litigation - 7-01- -050-283

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc., Eatontown, NJ
- b. Township Administrator
- c. Township Chief Financial Officer
- d. GluckWalrath, LLP

The following Res. # 2007-172 (Approval of Settlement Agreement - Northpointe) was introduced by reference, offered by Councilwoman Tragni, and seconded by Councilman Pernice. After discussion, the resolution was then passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION #2007-172

A RESOLUTION AUTHORIZING THE SETTLEMENT OF OHAD ASSOCIATES, LLC'S OBJECTION TO THE TOWNSHIP'S AFFORDABLE HOUSING PLAN WITH RESPECT TO THE PROPERTY KNOWN AND DEPICTED AS BLOCK 143, LOTS 1.02 AND 12

WHEREAS, Ohad Associates, L.L.C. ("Ohad"), a New Jersey limited liability company, is the owner of 48.24 +/- acres of real property known and depicted as Block 143, Lots 1.02 and 12, on the Official Tax Map for the Township of Marlboro (the "Property"); and

WHEREAS, the principals of Ohad, Michael Weitz and David Kahane, previously owned the Property, sold it to "Marlboro Hills, Inc." ("MHI") in January, 1988, and re-acquired the Property by Sheriff's Deed as take back purchase money-mortgagees upon successfully foreclosing upon MHI and the Property in 1993. Ohad was formed by Messrs. Weitz and Kahane to develop the Property as the successor-in-interest to MHI; and

WHEREAS, prior thereto, in June of 1984 the Township of Marlboro re-zoned the site of the Property as "Multi-Family Dwelling" ("MFD"), as a consequence of which the Township of Marlboro was sued by several developers in multiple "builders' remedy" actions --- including Michael Wetiz and David Kahane --- which actions were consolidated by The Hon. Eugene D. Serpentelli, A.J.S.C.; and

WHEREAS, on December 24, 1985, the Property was included in a "Consent Order for Final Judgment" entered by Judge Serpentelli (the "December 24, 1985 Consent Order" or "Consent Order") which provided for 384 units including 85 affordable housing units on the Property in implementation of the Township of Marlboro's Fair Share obligation; and

WHEREAS, on May 16, 1990, in furtherance of the Consent Order, then applicant, MHI, received preliminary site plan and subdivision approval (the "1990 Preliminary Site Plan Approval") from the Planning Board for the Township of Marlboro ("Planning Board") for a project then known as "Marlboro Hills" for a total of 299 market-rate townhouse units on the Property. The

approval was conditioned upon the applicant entering into a Regional Contribution Agreement ("RCA") for the transfer of 85 affordable units, which was a concession to do affordable housing off-site that was not required by the Consent Order; however, no such RCA was ever formally entered into nor did MHI ever file an application with the Planning Board for final approval; and

WHEREAS, Ohad, as the successor-in-interest to MHI and owner of the Property, subsequently filed an application with the Planning Board for Amended Preliminary Site Plan approval (the "Amended Site Plan Application") on or about June 27, 2003 seeking amended approvals for a project newly re-named "Northpointe" ("Northpointe"), and whereby Ohad proposed, *inter alia*, to build 85 on-site affordable units on the Property rather than fund an 85-unit RCA as originally contemplated in the 1990 Preliminary Site Plan Approval; and

WHEREAS, on April 7, 2004 the Planning Board voted to deny Ohad's Amended Site Plan Application, which decision was memorialized by resolution adopted by the Planning Board on June 16, 2004 and published on June 19, 2004; and

WHEREAS, on July 27, 2004, the Township of Marlboro filed with COAH the July 21, 2004 "Resolution" of the Planning Board "Adopting a Housing Plan Element and Fair Share Plan" as embodied in the plan entitled "Housing Plan Element and Fair Share Plan" prepared by Birdsall Engineering, Inc., dated July, 2004; the July 22, 2004 Resolution of the Marlboro Township Council, "Resolution #2004-225", endorsing the Housing Plan Element dated July, 2004 and approving the Fair Share Plan dated July, 2004 (collectively, the "Affordable Housing Plan"); and, further requested of COAH that it consider the Township's Affordable Housing Plan as its formal petition for substantive certification, as well as for COAH to review and certify the Affordable Housing Plan; and

WHEREAS, on July 30, 2004, Ohad filed a "Complaint In Lieu of Prerogative Writs and Under Mt. Laurel II" against the Planning Board, in the Superior Court of New Jersey, Law Division, Monmouth County ("Prerogative Writ Action"), in the matter known and encaptioned as "*Ohad Associates, LLC v. Marlboro Township Planning Board, Dkt. No. #MON-L-3392-04*", in which action Ohad sought, *inter alia*, to have the Court overturn and reverse the Planning Board's denial of Ohad's earlier application for Amended Site Plan Approval for the "Northpointe"

project, and, to grant the full relief sought by Ohad in its Complaint in connection with the same; and

WHEREAS, on or about September 9, 2004, in accordance with N.J.A.C. 5:91-4.1, Ohad further filed a formal objection with COAH to the Affordable Housing Plan ("Objection"); and

WHEREAS, in response to Ohad's objection with COAH, the Township of Marlboro and Ohad engaged in mediation and good faith negotiations as required by COAH through N.J.A.C. 5:91-7.1, et seq.; and

WHEREAS as a result of the mediation process, Ohad and the Township reached a proposed settlement (the "Settlement") which will allow for Ohad to construct, on the Property, 299 market-rate rental units and 71 affordable family rental units and Ohad further agreed to fund 14 RCAs at an amount to be determined and approved by COAH; and

WHEREAS, Ohad accordingly agreed to conditionally dismiss its Prerogative Writ Action against the Planning Board, *without prejudice*, in order to facilitate the consummation and implementation of the Settlement attained in the COAH mediation process, which, if, as and when implemented would render the claims asserted by Ohad against the Planning Board in the Prerogative Writ Action moot; and, toward that end, Ohad and the Planning Board entered a "Stipulation and Order of Dismissal" to that effect which was entered and filed by The Hon. Lawrence M. Lawson, A.J.S.C. in that action on August 23, 2005, and subsequently amended by "First Amended Stipulation and Order of Dismissal" entered and filed by the Court on August 24, 2006; and

WHEREAS, the Township Council has found and determined that it would be in the best interests of the Township to agree to settle Ohad's Objection pursuant to the Settlement attained in the COAH mediation process in order to help meet its constitutional obligation of providing affordable housing within the Township's borders, and, to satisfy the Township's affordable housing obligation in furtherance of obtaining substantive certification of its Affordable Housing Plan from COAH and to prevent builder's remedy litigation against the Township; and

WHEREAS, the Township remains under COAH's jurisdiction and it submitted an Affordable Housing Plan to COAH in compliance with COAH's Third Round rules on December 20, 2005 in

furtherance of implementing both the Township's Second and Third Round affordable housing obligations and the Township included Northpointe in the Township's Housing Element and Affordable Housing Compliance Plan dated December 2005:

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that, as settlement of Ohad's Objection to the Township's Affordable Housing Plan and Ohad's dismissal of the Prerogative Writ Action against the Planning Board, the Township Council of the Township of Marlboro be and hereby approves the terms and conditions of the Settlement; and

BE IT FURTHER RESOLVED, that the Mayor and the Township Attorney are hereby authorized to execute the Settlement Agreement in a form substantially similar to the Agreement that is attached hereto and to execute any documents necessary to effectuate the terms of this settlement; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Thomas Daniel McCloskey, Esq., Attorney for Ohad;
- b. Dennis Collins, Esq., Attorney for the Marlboro Township Planning Board; and
- c. GluckWalrath, LLP.

The following Res. # 2007-199 (Authorizing Professional Services Agreement- Realty Appraisal Co.) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2007-199

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN REALTY APPRAISAL COMPANY AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF APPRAISALS OF NEW CONSTRUCTION, ADDITIONS AND ALTERATIONS FOR THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro is in need of professional services for the provision of appraisals of new construction, additions and alterations; and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, Realty Appraisal Company has submitted the attached proposal dated May 30, 2007 (the "Proposal") to the Township of Marlboro to provide the aforementioned professional services for an amount not to exceed \$15,000.00, to be amended after the adoption of the 2007 budget; and

WHEREAS, Realty Appraisal Company has completed and submitted a Business Entity Disclosure Certification which certifies that Realty Appraisal Company has not made any reportable contributions to a political or candidate committee in the Township of Marlboro in the previous one year, and that the contract will prohibit Realty Appraisal Company from making any reportable contributions through the term of the contract; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Realty Appraisal Company to provide the required professional services in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between Realty Appraisal Company and the Township of Marlboro to provide the required professional services in accordance with the Proposal; and

BE IT FURTHER RESOLVED, that the Certified Financial Officer has executed a Certification of Funds for the \$15,000 contract, which is attached hereto, and that sufficient funds for the total project cost will be available upon the adoption of the 2007 budget for said contact from Account Number 7-01- -045-286.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Realty Appraisal Company
c/o Stanley Rubenstein
4912 Bergenline Avenue
West New York, NJ 07093
- b. Township Tax Assessor
- c. Township Administrator
- d. Township Chief Financial Officer
- e. GluckWalrath, LLP

The following Res. # 2007-200 (Appointment Youth Exchange Advisory Committee - James Mione - to fill unexpired term of Saher Gouda expiring December 31, 2008) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Tragni and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION #2007-200

A RESOLUTION AUTHORIZING THE APPOINTMENT OF A NEW MEMBER TO THE YOUTH EXCHANGE ADVISORY COMMITTEE

WHEREAS, as codified in Section 4-12.C of the Code of the Township of Marlboro, by Ordinance #2003-28, the Township Council established the Youth Exchange Advisory Committee as a special committee of the Township Council to oversee the administration, management and planning of the Youth Exchange Program between the Township of Marlboro and the Town of Johana (renamed Nanto City), Toyama Prefecture, Japan; and

WHEREAS, pursuant to Section 4-12.C, the Youth Exchange Advisory Committee is to consist of twelve (12) members appointed by the Township Council; and

WHEREAS, Saher Gouda has vacated the position of member prior to the term's expiration on December 31, 2008; and

WHEREAS, the Township Council now desires to fill the vacancy on the Youth Exchange Advisory Committee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that James Mione, is hereby appointed to the Youth Exchange Advisory Committee for the unexpired term of Saher Gouda expiring December 31, 2008, and until the appointment and qualification of his successor.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Township Business Administrator
- b. GluckWalrath, LLP

The following Res. # 2007-207 (Confirming Appointment of Director of Community Relations - Paul Abelow) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilman Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli). Andrew Bayer, Esq. administered the Oath of Office to the Director of Community Relations Paul Abelow.

RESOLUTION #2007-207

RESOLUTION CONFIRMING THE APPOINTMENT OF
PAUL ABELOW AS THE DIRECTOR OF COMMUNITY RELATIONS

WHEREAS, the Mayor has advised the Township Council of his intention to appoint PAUL ABELOW as the Director of Community Relations for the Township of Marlboro subject to the advice and consent of the Township Council.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that it hereby advises and consents to the appointment of PAUL ABELOW as the Director of Community Relations for the Township of Marlboro.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Pernice, seconded by Council Vice President Rosenthal and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli): Res. #2007-201 (Authorizing Drug Alliance Grant/DDER Plan), Res. #2007-202 (Amending Res. #2007-173 Authorizing Purchase of Police Vehicle - State Contract #A67129), Res. #2007-203 (Authorizing Fireworks Display - July 8, 2007), Res. #2007-204 (Authorization to Bid - Recreation Projects - 1. Tennis Court Renovation Projects, 2. Hockey Rink/Basketball Court Renovation Project, 3. Woodcliff Park Renovation Project, 4. Recreation Senior Bus, 5. Park System Lightning Detection System, 6. Recreation Center LCD Information Sign), Res. #2007-205 (Authorization to Bid - 1. Igoe Road Improvements, 2. Hobart/Willis Street Improvements.

RESOLUTION # 2007-201

RESOLUTION AUTHORIZING THE MARLBORO TOWNSHIP ALLIANCE TO PREVENT ALCOHOLISM AND DRUG ABUSE TO APPLY FOR THE 2008 GRANT

Whereas, the Marlboro Township Alliance to Prevent Alcoholism and Drug Abuse provides a wide range of educational services to the residents of Marlboro Township for the prevention of alcohol and drug abuse; and

WHEREAS, the Alliance to Prevent Alcoholism and Drug Abuse requires funding from the Monmouth County Board of Alcohol and Drug Abuse Services in order to continue to provide these services to the residents of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Mayor and Township Council of the Township of Marlboro that he appropriate municipal officials be and are hereby authorized to execute the 2008 Renewal Application for Funds and Services on behalf of the Alliance to Prevent Alcoholism and Drug Abuse for the purpose of obtaining funding for the provision of programs for the prevention of and education regarding alcohol and drug abuse, a copy of which is on file in the Township Clerk's office and available for public inspection; and

BE IT FURTHER RESOLVED that the Township Clerk is hereby directed to forward executed copies of the Agreement to the Monmouth County Board of Alcohol and Drug Abuse Services.

RESOLUTION # 2007-202

RESOLUTION AMENDING RESOLUTION NO. 2007-173
AUTHORIZING THE PURCHASE OF ONE (1)
NEW 2007 FORD CROWN VICTORIA POLICE INTERCEPTOR
AND RELATED EQUIPMENT STATE CONTRACT #A67129

WHEREAS, on May 3, 2007, the Township Council of the Township of Marlboro adopted Resolution No. 2007-173 authorizing the purchase of one (1) new 2007 Ford Crown Victoria Police Interceptor and related equipment under state contract #A67129; and

WHEREAS, subsequent to authorizing the purchase of said vehicle under state contract #A67129 the Police Department received updated state contract information including specifications for the new 2008 Ford Crown Victoria Police Interceptor and related equipment; and

WHEREAS, the state contract for the 2008 Ford Crown Victoria Police Interceptor includes the 65P rear light package; and

WHEREAS, the Township Council now wishes to amend the contract with Warnock Fleet in order to authorize the purchase of one (1) new 2008 Ford Crown Victoria Police Interceptor including the 65P rear light package under state contract #A67129 for an amount not to exceed \$22,258.79; and

WHEREAS, funds are available in MCIA Account Number Y-05-55-012-951 and have been certified to by the Chief Financial Officer of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the contract between the Township of Marlboro and Warnock Fleet for the provision of one (1) new 2007 Ford Crown Victoria Police Interceptor is hereby amended in order to authorize the purchase of one (1) new 2008 Ford Crown Victoria Police Interceptor including the 65P rear light package.

2. That the appropriate Township officials are hereby authorized to execute an agreement, acceptable to the Township Attorney, between the Township of Marlboro and Warnock Fleet for the provision of one (1) new 2008 Ford Crown Victoria

Police Interceptor including the 65P rear light package for an amount not to exceed \$22,258.79.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Warnock Fleet
175 Route 10
East Hanover, NJ 07936
- b. Township Administrator
- c. Police Department
- d. Chief Financial Officer
- e. Township Attorney

RESOLUTION #2007-203

RESOLUTION AUTHORIZING THE ISSUANCE OF A FIREWORKS
DISPLAY PERMIT TO PYRO ENGINEERING, INC.,
D/B/A BAY FIREWORKS

WHEREAS, N.J.S.A. 21:3-1, *et seq.* regulates the sale, exposure for sale, use, distribution or possession of fireworks or pyrotechnics in the State of New Jersey so as to advance the interests of public health, safety and welfare of the people of the State of New Jersey; and

WHEREAS, upon satisfaction of the conditions set forth in N.J.S.A. 21:3-1, *et seq.*, and more particularly those set forth in N.J.S.A. 21:3-3, the governing body of any municipality may, by resolution, approve the granting of a permit for said purposes to a qualified organization, when such display is to be handled by a competent operator in the manner approved by the Chief of the Police and the Fire Department of the municipality so as not to be hazardous to property or endanger any person or persons; and

WHEREAS, Pyro Engineering, Inc., doing business as Bay Fireworks ("Pyro"), has applied for a permit to conduct a fireworks display within the Township of Marlboro on July 8, 2007 (with a rain date of August 5, 2007) upon satisfaction of the conditions set forth in N.J.S.A. 21:3-1, *et seq.* and in accordance with all applicable New Jersey Administrative Code regulations promulgated in accordance therewith, as amended from time to time.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED that the Township Council of the Township of Marlboro, County of

Monmouth and State of New Jersey does hereby grant approval to Pyro to conduct a fireworks display on July 8, 2007 (with a rain date of August 5, 2007) within the Township of Marlboro pursuant to N.J.S.A. 21:3-1, *et. seq.*, and more particularly N.J.S.A. 21:3-3, subject to:

1. Receipt of approval by the Chief of the Police and Fire Department in accordance with the above;
2. The posting of adequate surety which may be cash, government bonds, personal bond, or other form of insurance in a sum of not less than twenty-five hundred dollars (\$2,500.00), N.J.S.A. 21:3-4; and
3. The furnishing of the necessary Certificates of Insurance to the Township.

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

1. The Chief of the Police and Fire Department.
2. The Fire Prevention Bureau.
3. Township Business Administrator.

RESOLUTION # 2007-204

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Business Administrator is hereby authorized and directed to advertise for open competitive bids for the following said work, and/or materials as required by law:

RECREATION PROJECTS

1. Tennis Court Renovation Project
2. Hockey Rink/Basketball Court Renovation Project
3. Woodcliff Park Renovation Project
4. Recreation Senior Bus
5. Park System Lightning Detection System
6. Recreation Center LCD Information Sign

RESOLUTION # 2007-205

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Business Administrator is hereby authorized and directed to advertise for open competitive bids for the following said work, and/or materials as required by law:

7. Igoe Road Improvements
8. Hobart/Willis Street Improvements

At 10:30PM, Council President Cantor moved that the meeting be adjourned. This was seconded by Councilwoman Tragni, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: July 12, 2007

OFFERED BY: Tragni

AYES: 3

SECONDED BY: Pernice

NAYS: 0

ABSTAIN: Morelli

ABSENT: Cantor

ALIDA DE GAETA
MUNICIPAL CLERK

JEFF CANTOR
COUNCIL PRESIDENT